

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

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CLERK, U.S. DISTRICT COURT
W.D. OF TENN. JACKSON

TERRY ABELS, as Next Friend and
Guardian Ad Litem for JERRY HUNT,

Plaintiff,

VS.

No. 1:04-1148-T-An

GENIE INDUSTRIES, INC.; WHITE
ELECTRICAL CONSTRUCTION
COMPANY; and RENTAL SERVICE
CORPORATION (a/k/a RSC),

Defendants.

ORDER DENYING MOTION OF RSC FOR LEAVE TO FILE REPLY TO
PLAINTIFF'S RESPONSE IN OPPOSITION TO RSC'S MOTION FOR SUMMARY
JUDGMENT

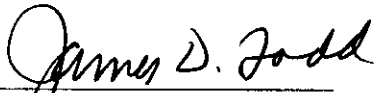
Defendant Rental Service Corporation ("RSC") moves for leave to file a reply to Plaintiff's Response to RSC's Motion for Summary Judgment. In support, RSC contends that Plaintiff's response cited "case law which is inapposite and which can clearly be distinguished from the facts *sub judice*."

The court recently issued a certification order certifying two state law questions to the Supreme Court of Tennessee. Whatever arguments RSC may seek to present in a reply brief may be better addressed to that Court if it agrees to address the questions presented in the certification order. If the Court does not address those questions, or if its opinion is not


dispositive of the pending motion for summary judgment, RSC may renew this motion for leave to file a reply.

Also, RSC's motion for leave to file a reply does not comport with Rule 7.2(a)(1)(B) of the Local Rules for the United States District Court for the Western District of Tennessee. Rule 7.2(a)(1)(B) requires "consultation" with opposing counsel before the filing of most motions in civil cases. L.R. 7.2(a)(1)(B). Although the requirement of consultation is excused for certain motions, *see id.*, a motion for leave to file a reply to a response is not within the exemption. RSC's failure to comply with the local rules constitutes an independent basis upon which to deny the instant motion. *See id.* ("Failure to file an accompanying certificate of consultation may be deemed good grounds for denying the motion.").¹

Therefore, RSC's Motion for Leave to File Reply to Plaintiff's Response in Opposition to Defendant RSC's Motion for Summary Judgment is DENIED.
IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE



DATE

¹RSC should not interpret the court's discussion of Local Rule 7.2 as permission to renew its motion before action by the Supreme Court of Tennessee.



Notice of Distribution

This notice confirms a copy of the document docketed as number 59 in case 1:04-CV-01148 was distributed by fax, mail, or direct printing on November 8, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT